

Retailers' Occupation Tax does not apply where sellers are required to ship goods by carrier or by mail, according to the terms of agreements with purchasers, and the seller delivers the goods from a point within Illinois to a point outside Illinois and the goods are not to be returned to Illinois. 86 Ill. Adm. Code 130.605. (This is a GIL).

March 31, 2003

Dear Xxxxx:

This letter is in response to your faxed letter dated March 12, 2003. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), which can be found on the Department's website at www.revenue.state.il.us/Laws/regs/part1200/.

In your letter, you have stated and made inquiry as follows:

Per phone conversation following is letter dated 1/16/78.

I need to verify that Illinois tax laws remain the same and also that dealers in Ill. should be collecting sales tax on their out-of-state sales. AAA in CITY, Il is telling Ind. customers they don't have to pay sales tax and hasn't collected it since Fall '02.

Thanks, for your help.

Enclosed is a copy of 86 Ill. Adm. Code 130.605 concerning Sales of Property Originating in Illinois. Subpart (c) of this regulation states that Retailers' Occupation Tax does not apply where sellers ship goods by carrier or by mail, according to the terms of agreements with purchasers, and the seller delivers the goods from a point within Illinois to a point outside Illinois and the goods are not to be returned to Illinois. Such sales are considered to be sales in interstate commerce and are exempt from Illinois and local Retailers' Occupation Tax, although there may be a tax liability in the other state involved in the transaction.

However, sales are not deemed to be in interstate commerce if the purchaser or his representative receives the physical possession of the property in Illinois, even if such property is immediately transported outside of Illinois, 86 Ill. Adm. Code 130.605(a)(1) and (2). This would be the case if the purchaser arranges and pays for the shipping, and the carrier takes possession of the property in this State.

The letter you attached from the Department dated February 16, 1978 is still the law (however, as you know, the tax rate for general merchandise is now 6.25% rather than 5%). If an Illinois

customer purchases a product from an Indiana dealer and is required to pay Indiana tax, Illinois will grant a credit for the amount of tax properly due and paid in Indiana.

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis
Associate Counsel

MAJ:msk
Enc.